



## ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

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September 1, 2005

To the Regulated Industry:

Governor Napolitano has authorized the Arizona Department of Weights and Measures (ADWM) to exercise its discretion and not take enforcement action for the transport, delivery, and sale of gasoline other than Arizona Cleaner Burning Gasoline (CBG) to the retail outlets in CBG Covered Area and high-sulfur diesel for on-road use statewide (red-dyed diesel excepted). This action is being taken in conjunction with a waiver issued by the U.S. Environmental Protection Agency (EPA) in response to Hurricane Katrina. While current inventory levels of fuel in CBG Covered Area and across the state remain normal, this is a precautionary measure.

As of August 31, 2005, the EPA will exercise enforcement discretion regarding potential violations of Arizona's State Implementation Plan. This action will allow regulated parties to supply, transport, or sell conventional gasoline in CBG Covered Area and high-sulfur diesel throughout the State. EPA's and the Department's enforcement discretion regarding high-sulfur diesel will continue through September 15, 2005.

The State of Arizona Department of Weights and Measures will exercise its enforcement discretion regarding the statutes and administrative rules governing CBG within the CBG Covered Area for the same time period. EPA has asked that, to the extent practicable, regulated parties take all reasonable steps to distribute and sell on-hand inventories of gasoline and diesel fuel that would otherwise meet applicable Federal and State standards. The EPA waiver, in combination with this letter, effectively permits the transport, delivery and sale of conventional gasoline in CBG Covered Area and high-sulfur diesel statewide.

As part of this enforcement discretion, the Department recommends the early blending of ethanol with CBG to enhance current supplies. Blending of ethanol with conventional fuel is prohibited due to potential driveability problems.

The Department has defined taking reasonable steps as contacting the suppliers you would contact in the normal course of business and offering to purchase motor fuels meeting applicable State standards. If those sources indicated that there is no supply of CBG, CARB or RFG, then conventional fuel can be acquired and sold. The same applies with respect to availability of low-sulfur diesel. The Department believes that if you have followed these steps you have met the reasonable parties test.

Part and parcel of the exercise of enforcement discretion, the Department is requiring that those suppliers, transporters who deliver for sale or use, and service stations that sell conventional gasoline in Area A or high-sulfur diesel anywhere in Arizona report to the Department:

- 1) The quantity of high-sulfur diesel and the quantity and grade of conventional gasoline delivered or received (as appropriate).
- 2) For suppliers, the properties of the high-sulfur diesel and conventional gasoline sent for use and sale.
- 3) Report to the Department the location where the conventional fuel has been delivered.

These reports will be due to the Department 15 days after the first delivery of high-sulfur diesel or conventional gasoline.

In addition, all transfer documents are must identify the grade and type of fuel delivered regardless.

The Department will notify regulated parties if necessary as a result of new developments. Should you have any questions regarding the exercise of enforcement discretion you may contact Duane Yantorno at (623) 463-9942 or e-mail [dyantorno@azdwm.gov](mailto:dyantorno@azdwm.gov).

Sincerely,

A handwritten signature in black ink, reading "J. Art Macias, Jr." in a cursive style.

J. Art Macias, Jr.  
Director